

## **JobsEQ® SUBSCRIPTION AGREEMENT**

This Subscription Agreement (this “Agreement”) is effective as of June 24th, 2019 (the “Effective Date”), and is made by and between Chmura Economics & Analytics, LLC, a Virginia limited liability company located at 1309 East Cary Street, Richmond, VA 23219 (“Chmura”), and Texas A&M University, a member of The Texas A&M University System, an agency of the State of Texas on behalf of its Real Estate Research Center located at 1700 Research Parkway, Suite 200 2115 TAMU, College Station, TX 77843 (“Client”).

### **Recitals:**

**Whereas**, Client desires to obtain a subscription license to the Chmura JobsEQ® Platform, to utilize Chmura’s proprietary JobsEQ® workforce and economic management tools and the proprietary data therein; and

**Whereas**, Chmura is willing to grant Client a subscription license on the terms and conditions set forth herein;

**Now, Therefore**, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, Chmura and Client hereby agree as follows:

### **1. Definitions.**

(a) “Affiliate” of an entity means any entity which, directly or indirectly, controls, is controlled by or is under common control with such entity, where control means the ability to direct the affairs of an entity through ownership of voting interest, contract rights or otherwise.

(b) “Chmura Intellectual Property” means: (i) the Chmura Software; (ii) the Chmura JobsEQ® Platform; (iii) Data; (iv) the Documentation; (v) all Derivative Works of the foregoing; and (vi) and all patents, copyrights, trade secret rights and other intellectual property rights with respect to the foregoing (i) – (v).

(c) “Chmura JobsEQ® Platform” means Chmura’s proprietary, online JobsEQ® platform, located at [www.JobsEQ.com](http://www.JobsEQ.com).

(d) “Chmura Software” means Chmura’s proprietary JobsEQ® workforce and economic management software, modeling tools, Documentation, and all Data included therein.

(e) “Claim” shall have the meaning set forth in Section 7(a) below.

(f) “Client Indemnitees” shall have the meaning set forth in Section 7(a) below.

(g) “Client User Information” means all data in any format relating to End Users or Client employees or agents.

(h) “Confidential Information” shall have the meaning set forth in Section 9(a) below.

(i) “Data” means the datasets available through the Chmura JobsEQ® Platform.

(j) “Derivative Work”, as well as “display”, “perform” and “copies,” are as defined in the U.S. Copyright Act, Title 17 of the U.S. Code, as amended.

(k) “Disclosing Party” shall have the meaning set forth in Section 9(a) below.

(l) “Documentation” means any documentation, materials, or other instructions provided to Client as a licensed user of the JobsEQ® Platform, including without limitation the content of the “Help” feature of the JobsEQ® Platform.

(m) “End Users” means those individuals permitted to access the JobsEQ® Portal as set forth on Schedule 1.

(n) “In Bulk” means downloading all or parts of the Data in a systematic or regular manner so as to create a collection of materials comprising all or part of the Data whether or not such collection is in electronic or print form.

(o) “License Fees” shall have the meaning set forth on Schedule 1.

(p) “Losses” shall have the meaning set forth in Section 7(a) below.

(q) “Products” shall mean, collectively, the Chmura JobsEQ® Platform and the Chmura Software.

(r) “Receiving Party” shall have the meaning set forth in Section 9(a) below.

(s) “Term” shall mean the subscription term of this Agreement as set forth on Schedule 1.

## **2. License Grant and Restrictions on Use.**

(a) License. Chmura grants to Client, only for use by Client’s authorized End Users as set forth on Schedule 1, a non-exclusive, non-transferable (except as set forth herein), non-sublicensable, worldwide, license to access the Chmura JobsEQ® Platform and to use the Chmura Software solely for Client’s business purposes and in accordance with the permitted uses set forth in Section 2(b). Client may not disclose Data to third parties who are consultants or businesses that compete with Chmura in consulting or in providing labor market data or compete with Chmura in any manner. Client agrees that it shall include an acknowledgement of Chmura’s JobsEQ as the source for any Data extracted from the Chmura JobsEQ® Platform in any printed materials containing such Data.

(b) Permitted Uses. Subject to the provisions herein, End Users may use the Data in the ordinary course of Client’s business purposes for:

- (i) Client’s internal research purposes;
- (ii) Providing information regarding a limited number of particular industries, occupations, programs, or regions to Client’s stakeholders, clients, or prospective clients;
- (iii) Marketing Client’s organization or region;
- (iv) Creating periodic general research reports for in-house use or for stakeholders’, clients’, or prospective clients’ use.

(v) Subject to the provisions herein, Client may print Data or copy Data into other programs, so long as the amount of Data being printed or copied is reasonably tailored for Client's purposes, insubstantial, and used in compliance with these use and copying provisions.

(c) Restrictions on Use. Client agrees that:

(i) Client shall not rent, sell, assign, lease, or sublicense the Chmura JobsEQ® Platform or any Data, nor use the Chmura JobsEQ® Platform in a service bureau, outsourcing or other arrangement to process or analyze data on behalf of any third party, except as expressly set forth in the Permitted Uses above.

(ii) Client shall not download or attempt to download Data In Bulk.

(iii) Client shall not access the Chmura JobsEQ® Platform using any tools to automate such access (by way of example but not limitation, such as using a browser plugin to automate Client's web browser).

(iv) Client shall not knowingly access, store, or transmit via the Chmura JobsEQ® Platform any material that:

(A) is unlawful, harmful, or infringing;

(B) facilitates illegal activity; or

(C) causes damage or injury to any person or property.

(v) Client shall not violate or attempt to violate the security of Chmura's networks, including (A) accessing Data not intended for Client; (B) accessing a server or account which Client is not authorized to access; (C) attempting to scan or test the vulnerability of a system or network or to breach security or authentication measures; or (D) attempting to interfere with the availability or functionality of the Chmura JobsEQ® Platform, including by means of submitting a virus, overloading, flooding, spamming, mail bombing or crashing;

(vi) Notwithstanding any other provision herein or on any Schedule, Client shall not share the Data with any competitors or consultants competing directly with Chmura.

(vii) Client shall not decompile, disassemble, reverse engineer or otherwise attempt to derive source code from the Chmura Software or the Chmura JobsEQ® Platform, in whole or in part, nor will Client use any mechanical, electronic, or other method to decompile, disassemble, or identify the source code of the Chmura Software or encourage others to do so;

(viii) Client shall not use or distribute any Data to directly or indirectly create or contribute to the development of any database or product;

(ix) Client shall not make any portion of the Data publicly available, except as expressly set forth in the Permitted Uses above;

(x) Client shall not store, copy, or export any portion of the Data into any database or other software, except as expressly set forth in the Permitted Uses above;

(xi) Client shall not upload, post, or otherwise publish any portion of the Data on, or provide access to any portion of the Data through the internet, any other electronic network, and data library, any listing service, or any other data sharing arrangement, except as expressly set forth in the Permitted Uses above;

(xii) Client shall comply with Chmura's policies and procedures in effect during the Term regarding use of the Chmura JobsEQ® Platform.

(xiii) Client shall cause each of Client's authorized End Users to comply with the obligations set forth in this Section.

### **3. Training Services; Uptime.**

(a) Training. Weekly training sessions are included in the License Fees – typically one or two webinars per week are available. Webinar users will be undisclosed to other attendees to protect their privacy. In addition to the weekly training session, the JobsEQ® live chat feature provides technical assistance during most business hours. JobsEQ® also includes video tutorials and written documentation in the online Help section. Client may request additional training sessions for the authorized End Users at Chmura's hourly rate as set forth on Schedule 1.

(b) Chmura JobsEQ® Platform. The Chmura JobsEQ® Platform will go offline from time to time for maintenance. Chmura will use best efforts to provide notice (e-mail acceptable) of maintenance periods at least 24 hours in advance and to perform maintenance on weekends or after 5 p.m. CST on weekdays; provided, however, that in emergency situations such advance notice may not be possible.

(c) Internet Access. Except for maintenance as provided in subsection (b) above, and subject to the limitations below, the Chmura JobsEQ® Platform shall be available 24 hours per day/7 days per week.

(d) Client understands and agrees that occasional temporary interruptions of Internet service may occur due to acts of God, interruption in service by co-locator or other reasons beyond the reasonable control of Chmura which may interrupt or degrade the content of or delivery of information available from Chmura JobsEQ® Platform from time to time. IN THE EVENT AN INTERRUPTION OF CHMURA'S ABILITY TO PROVIDE ACCESS TO THE CHMURA JOBSEQ® PLATFORM LASTS MORE THAN FIVE (5) BUSINESS DAYS, CLIENT SHALL HAVE THE OPTION TO TERMINATE THIS AGREEMENT AND RECEIVE A PRO-RATA REFUND OF THE ANNUAL FEES PAID BY CLIENT FOR THE TERMINATED PORTION OF THE TERM.

**4. Ownership.** Client acknowledges and agrees that the Chmura Intellectual Property is owned exclusively by Chmura (including, without limitation, the look and feel, designs, algorithms, databases structures, methodologies, and know-how associated with the Chmura Intellectual Property and all updates, upgrades, improvements, customizations and enhancements to the JobsEQ® Platform) and Client has no ownership rights in any Chmura Intellectual Property except the limited license granted in Section 2 above.

### **5. Financial Matters and Fees.**

(a) Fees. Client agrees to pay the annual License Fees set forth on Schedule 1.

(b) Taxes. Client shall pay or reimburse Chmura for all sales and use taxes levied or imposed by reason of the performance by Chmura under this Agreement; excluding, however, income taxes on Chmura's gross income, employment taxes and taxes based on professional

licenses or business operations which may be levied against Chmura. As an agency of the State of Texas, Client is tax exempt.

(c) Invoicing and Payment. Chmura accepts payments by check, ACH/Debit, EFT, VISA, MasterCard and American Express. Payment by credit card is subject to a 2% convenience fee. Chmura does not offer a discount for paying by check, ACH/Debit, or EFT. Unless otherwise expressly set forth on Schedule 1, Client shall pay the initial License Fees within thirty (30) days following execution of this Agreement by Client. Invoices for subsequent annual Terms shall be paid by Client by the due date, which shall be the day following the last day of the previous Term. Payment from Client will be due thirty (30) days from the date Client receives the invoice. All past due amounts will be subject to a finance charge in accordance with the Texas Prompt Payment Act, Chapter 2251, Texas Government Code.

**6. Limitations on Warranties and on Liability.**

(a) DISCLAIMER OF WARRANTIES. CHMURA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, TO CLIENT OR TO ANY END-USER AS TO THE ACCURACY OR ADEQUACY OF OR OMISSIONS FROM ANY DATA OR AS TO THE ADEQUACY OF RESULTS TO BE OBTAINED BY USING THE JOBSEQ® PLATFORM, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. EXCEPT AS EXPRESSLY SET FORTH HEREIN, CHMURA DOES NOT WARRANT THAT: (i) THE JOBSEQ® PLATFORM WILL BE FREE FROM MINOR DEFECTS OR ERRORS THAT DO NOT MATERIALLY AFFECT ITS PERFORMANCE; (ii) THE JOBSEQ® PLATFORM WILL OPERATE UNINTERRUPTED OR CAN BE ACCESSED AND USED BY END USERS AT ALL TIMES WITHOUT INTERRUPTION, (iii) THE JOBSEQ® PLATFORM IS COMPATIBLE WITH ANY SOFTWARE, SERVICE OR HARDWARE UTILIZED BY CLIENT OR END USERS EXCEPT AS EXPRESSLY APPROVED IN WRITING BY CHMURA; OR (iv) THAT ANY DATA CONTAINED IN THE JOBSEQ® PLATFORM, IS SUFFICIENT TO MEET CLIENT'S OR ANY END USER'S BUSINESS, EDUCATIONAL OR TRAINING REQUIREMENTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT TO THE CONTRARY, THE JOBSEQ® PLATFORM, THE CHMURA SOFTWARE AND THE DATA ARE PROVIDED "AS IS" AND WITH ALL FAULTS.

(b) LIMITATION OF LIABILITY. IN NO EVENT SHALL CHMURA BE LIABLE FOR DAMAGES UNDER THIS AGREEMENT EXCEEDING THE ANNUAL LICENSE FEE PAID OR PAYABLE BY CLIENT TO CHMURA UNDER THIS AGREEMENT. , IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS) REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TAMU AGREES TO THE FOREGOING SECTION TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS

## **7. Indemnification.**

(a) By Chmura. Chmura shall indemnify, defend and hold harmless Client and its Affiliates and their respective officers, directors, employees, and agents (the “Client Indemnitees”) from and against any loss, damages, expenses, and costs (including reasonable attorney’s fees and court costs) (collectively, “Losses”) suffered or incurred by the Client Indemnitees arising out of any threatened or actual claim, action or proceeding (“Claim”) that the Chmura Products or Client Indemnitees’ use thereof infringes a patent or copyright, or misappropriates a trade secret or otherwise violates the rights of a third party. With approval granted from the Texas State Attorney General, Chmura shall control the defense of any such Claim and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof; provided that Chmura shall not enter any settlement that requires anything other than the payment of money without Client’s prior written approval. Client shall cooperate, at Chmura’s expense, with Chmura in any such defense and shall make available to Chmura all those persons, documents and things required by Chmura in the defense of any such Claim. Client may, at its expense, also assist in such defense with counsel of its own choosing.

(b) Remedies. If Chmura is required to indemnify the Client Indemnitees pursuant to Section 7(a) above, Chmura shall, at its option, either procure for Client the right to continue using the Chmura JobsEQ® Platform or modify the Chmura JobsEQ® Platform to permit Client to exercise its rights hereunder. If the foregoing options are not available, Chmura may terminate this Agreement and in such event shall refund to Client the pro rata portion of the License Fee for the remainder of the then-current annual Term. Sections 7 (a) and (b) state Chmura’s entire obligations concerning infringement of third party rights.

(c) By Client. To the extent permitted by the Constitution and laws of the State of Texas, Client shall indemnify, defend and hold harmless Chmura and its officers, directors, employees, and agents against any and all Claims and Losses suffered or incurred by Chmura to the extent that they arise out of Client’s use of the Chmura JobsEQ® Platform in a manner that violates the terms of this Agreement. With approval granted from the Texas State Attorney General, Chmura shall control the defense of any such Claim and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof; provided that Chmura shall not enter any settlement that requires anything other than the payment of money without Client’s prior written approval. Client shall cooperate, at Client’s expense, with Chmura in any such defense and shall make available to Chmura all those persons, documents and things required by Chmura in the defense of any such Claim. Client may, at its expense, also assist in such defense with counsel of its own choosing.

## **8. Term and Termination.**

(a) Term. The initial subscription Term shall be as set forth on Schedule 1 or, if no Term is specified, then one year from the effective date of this Agreement. Thereafter, this Agreement shall automatically renew for successive one (1) year Terms unless Client provides written notice to Chmura of its intention not to renew no less than thirty (30) days prior to the end of the then-current Term. The initial term plus any additional terms shall not exceed five (5) years without written agreement.

(b) Termination for Cause. Either party may terminate this Agreement at any time upon the occurrence of the following:

(i) the voluntary or involuntary dissolution and liquidation of the other party, the filing of a voluntary petition in bankruptcy, the filing of an involuntary petition in bankruptcy by creditors of the other party, which petition is not dismissed within ninety (90) days, or a general assignment by the other party for the benefit of creditors; or

(ii) if the other party has committed a material breach of any of the provisions of this Agreement, and such breach is not cured within thirty (30) days following the breaching party's receipt of notice from the non-breaching party specifying such breach; provided, however, that Chmura may at any time without prior notice terminate a specific End User's access to the Chmura JobsEQ® Platform if, in Chmura's sole judgment (A) Client (or any End User) has breached its obligations under Section 2(b), (B) an End User's credentials have been compromised, or (C) any activity by Client or an End User appears to constitute misuse of, or may cause damage to, the Chmura JobsEQ® Platform or the Data.

(c) Effect of Termination. Upon the termination of this Agreement pursuant to this Section 8 Chmura shall immediately terminate Client's access to the Chmura JobsEQ® Platform and disable all passwords issued to Client and its End Users. In the event of termination of the Agreement for material breach by Chmura, Chmura shall refund to Client the pro-rata portion of the Annual License Fees paid by Client for the remainder of the then-current Term. In the event of termination of the Agreement for material breach by Client, then upon such termination, Chmura shall be entitled to retain all License Fees paid by Client as of the date of termination, and

(d) Cancellation for Convenience: This Agreement may be terminated without penalty, by the Client without cause by giving sixty (60) days written notice of such termination to the Chmura. In no event shall such termination by Client as provided for under this Section give rise to any liability on the part of Client, but not limited to, claims of Chmura for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. Client's sole obligation hereunder is to pay Chmura for products and/or services ordered and received prior to the date of termination.

## **9. Confidential Information.**

(a) Generally. Each party (the "Receiving Party") will hold the Confidential Information of the other party (the "Disclosing Party") in confidence for the Disclosing Party and, except as may be authorized by the Disclosing Party in writing, the Receiving Party will not use or disclose Confidential Information to any persons except as contemplated hereunder. "Confidential Information" shall include any and all information of the Disclosing Party or its Affiliates which is disclosed hereunder and either identified in writing as "Confidential" or "Proprietary", or which, under the circumstances, ought reasonably to be treated as confidential or proprietary and shall include the Chmura Software, Documentation, and In Bulk Data.

(b) Exceptions. These confidentiality obligations shall not apply: (i) to any information or development which is or subsequently becomes available to the general public other than through a breach of this Agreement by, or fault of, the Receiving Party, or any party to whom it discloses Confidential Information; (ii) to any information or development which the Receiving Party can establish was already known to it before disclosure by the Disclosing Party; (iii) to any information or development which is developed through the independent efforts of the Receiving Party without regard to, reliance upon, use of or reference to any Confidential

Information of the Disclosing Party; (iv) to any information or development which the Receiving Party rightfully and lawfully receives from a third party which is not under restriction as to confidentiality or use of such information; or (v) to any disclosure required as a result of the process of law or under applicable law, or pursuant to the order or subpoena of a government agency or court of competent jurisdiction, provided that the Receiving Party immediately notifies the Disclosing Party of the matter, and permits the Disclosing Party to seek a protection order, if it deems it necessary, prior to the release of the Confidential Information.

(c) Survival. The obligations of confidentiality contained herein will survive and continue in full force and effect after the expiration or termination of this Agreement and will bind the parties and their successors and assigns.

(d) Client User Information. Notwithstanding anything herein to the contrary, it is understood that the Client User Information shall be considered Client Confidential Information and shall be treated as Confidential Information by Chmura and at no time shall be distributed to a third party or used by Chmura either before or after termination of this Agreement.

(e) Injunctive Relief. In the event of use or disclosure of any Confidential Information in a manner inconsistent with this Agreement or any other breach of this Section 9, the parties hereto acknowledge that a party or its affiliates, as applicable, may be caused irreparable damage, and that monetary damages alone may not be an adequate remedy for such breach and, in addition to any other relief to which it may be entitled, the injured party shall be entitled to seek, temporary and permanent injunctive relief to restrain any such breach, threatened or actual, without the need to post a bond or similar undertaking.

(f) Public Information. Chmura acknowledges that Client is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon Client's written request, Chmura will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to Client in a non-proprietary format acceptable to Client. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which Client has a right of access. Chmura acknowledges that Client may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

## **10. General Provisions.**

(a) Independent Contractor. Each party acknowledges and agrees that the other is an independent contractor and shall have no authority to act as an agent of the other, nor shall either party bind or purport to bind the other to any commitment or obligation.

(b) Assignment, Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Chmura may assign any payments due or owing under this Agreement. No assignment by Chmura of any payments due or owing under this Agreement shall affect Client's rights or Chmura's obligations hereunder. Neither Client nor Chmura may assign its obligations hereunder, except either party may assign this Agreement in the event of a sale of substantially all of its assets or shares, or may assign this Agreement to its Affiliates, without the prior written consent of the other party.



(c) Notices. All Notices required by this Agreement for either party are to be in writing (which shall not include email unless expressly permitted in the section of this Agreement where notice is required) and shall be forwarded as follows:

(i) If to Chmura:

Dr. Christine Chmura  
Chmura Economics & Analytics, LLC  
1309 East Cary Street  
Richmond, VA 23219

With a copy to:

Janet P. Peyton, Esq.  
McGuireWoods LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, VA 23219

If to Client:

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Changes in address by either party shall be made by written notice to the other party as above provided. Notices required by this Agreement shall be deemed received (A) upon delivery, when delivered in person or by commercially receipted courier, (B) upon the date sent by facsimile, if confirmed by written courier delivery or U.S. Postal Service, or (C) five (5) days after deposit with the U.S. Postal Service by registered or certified mail. Notwithstanding the foregoing, invoices shall be sent to the Client billing contact identified on Schedule 1.

(d) Entire Agreement. This Agreement constitutes the entire understanding between the parties, and supersedes all prior agreements, representations, memoranda, and correspondence concerning the understandings between the parties regarding the subject matter hereof.

(e) Conflicts. In the event of a conflict between this Agreement and a Schedule, the terms of this Agreement shall govern, except as provided herein or to the extent the Schedule explicitly references this Section and the Section of the Agreement which it is modifying. The terms of this Agreement and each Schedule are to be construed, so far as is reasonably practicable, to be harmonious and consistent.

(f) Governing Law; Venue. The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against Client shall be in Brazos County, Texas.

(g) Publicity. Client consents to Chmura's use of Client's name and logo for the sole purpose of acknowledging Client as a user of the Chmura JobsEQ® Platform and Data in marketing materials.

(h) No Waiver. No modification, amendment, or waiver of the terms hereof shall be effective unless in the form of a written instrument signed by or on behalf of Chmura and Client.

(i) Severability. If any provision of this Agreement, or the application thereof, will for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will be interpreted so as best to reasonably effect the intent of the parties. The parties further agree to replace any such invalid or unenforceable provisions with valid and enforceable provisions designed to achieve, to the extent possible, the business purposes and intent of such invalid and unenforceable provisions.

(j) Force Majeure. Neither party shall be held responsible for any delay or failure in performance hereunder caused by fires, strikes, embargoes, acts of God, acts of terrorism, or other causes beyond its reasonable control.

(k) Survival. The rights and obligations of Sections 2(b), 6, 7, 8, 9, and 10 together with those other provisions which by their nature should survive, will so survive and continue in full force and effect after any expiration or termination of this Agreement and will bind the parties and their successors and assigns.

(l) Section and Paragraph Headings. Section and paragraph headings are for purposes of identification only and are not to be deemed provisions of this Agreement or in any way to alter the contents of the sections or paragraphs they head.

#### **11. State Contracting Requirements:**

**Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the Chmura or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

**Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Chmura agrees that any payments owing to Chmura under this Agreement may be applied directly toward certain debts or delinquencies that Chmura owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

**Prohibited Bids and Agreements.** A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based. The *Texas Government Code* requires the following statement: "Under Section 2155.004, *Texas Government Code*, the Chmura certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

**Dispute Resolution.** The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Client and Chmura to attempt to resolve any claim for breach of contract made by Chmura that cannot be resolved in the ordinary course of business. Chmura shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of Texas A&M University, who shall examine Chmura's claim and any counterclaim and negotiate with Chmura in an effort to resolve the claim.

**Access by Individuals with Disabilities**

Chmura represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to Customer under this Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code). To the extent Chmura becomes aware that the EIRs, or any portion thereof, do not comply then Chmura represents and warrants that it will, at no cost to Customer, either (1) perform all necessary remediation or (2) replace the EIRs with new EIRs.

**Franchise Tax Certification.** If Chmura is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Chmura certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that Chmura is exempt from the payment of franchise (margin) taxes.

**Products and Materials Produced in Texas.** Chmura agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Agreement, Chmura will purchase products and materials produced in Texas when such products and materials are available at a price and time comparable to products and materials produced outside of Texas.

**Loss of Funding.** Performance by Client under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Client will issue written notice to Chmura and Client may terminate this Agreement without further duty or obligation hereunder. Chmura acknowledges that appropriation of funds is beyond the control of Client.

**State Auditor's Office.** Chmura understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Chmura agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Chmura will include this provision in all contracts with permitted subcontractors.

**Non-Waiver.** Chmura expressly acknowledges that Client is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by Client of its right to claim such exemptions, privileges, and immunities as may be provided by law.

**Chmura Certification regarding Boycotting Israel.** Pursuant to Chapter 2270, *Texas Government Code*, Chmura certifies Chmura (1) does not currently boycott Israel; and (b) will not boycott Israel during the Term of this Agreement. Chmura acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Chmura Certification regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, Chmura certifies Chmura (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Chmura acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

**Conflict of Interest.** By executing and/or accepting this Agreement, Chmura and each person signing on behalf of Chmura certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of The Texas A&M University System ("TAMUS") or TAMUS Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by Client or TAMUS, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

**(Signatures Follow)**

IN WITNESS WHEREOF, the parties thereto have duly executed this Agreement to be effective as of the Effective Date.

**Chmura Economics & Analytics, LLC**

By: \_\_\_\_\_

Name: Leslie Peterson

Title: President

Date: 6/24/2019

Name: Rick Lombardo

Title: Account Manager

**Real Estate Center at Texas A&M**

By: \_\_\_\_\_

Name: **ROBERT C. BOUNDS**  
DIRECTOR, PROCUREMENT SERVICES

Title: \_\_\_\_\_

Date: 20 Jun 2019

**Schedule 1**  
**to**  
**JobsEQ®**  
**Subscription Agreement**

**Client: Real Estate Center at Texas A&M**

Term: The Term of this Agreement shall commence on the Effective Date and continue until the third anniversary of such date. Renewal terms shall be as set forth in the Agreement.

Ten (10) Authorized End Users: [LIST # OF END USERS AND NAMES AND EMAIL ADDRESSES]

- \_\_\_ 1. Gerald Klassen ([gklassen@tamu.edu](mailto:gklassen@tamu.edu))
- \_\_\_ 2. Jim Gaines ([jgaines@mays.tamu.edu](mailto:jgaines@mays.tamu.edu))
- \_\_\_ 3. Herold Hunt ([h-hunt@mays.tamu.edu](mailto:h-hunt@mays.tamu.edu))
- \_\_\_ 4. Seven (7) more users TBD

Annual License Fees: \$11,625 Due upon invoice, \$11,625 due 5/14/2020, \$11,625 due 5/14/2021

Client billing contact: Gerald Klassen

License provides access to the following geographic area: The entire State of Texas and 75-miles around the state at the zip code level